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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,335

02/13/2006

Kurt Douglas Raughley

CL2420USPCT

6179

7590

10/13/2006

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Legal Patents
Wilmington, DE 19898

EXAMINER

LEUNG, PHILIP H

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/568,335

Applicant(s)

RAUGHLEY, KURT DOUGLAS

Examiner

Philip H. Leung

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2-13-2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. The drawings filed 2-13-2006 are acceptable.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 8-11 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Brandberg et al (US 4,038,425) (cited in the PCT report).

Brandberg shows a disposable container 10 for preparing a comestible material in a microwave oven, comprising: a first portion of the container defining a preparation chamber 13, a second portion of the container expandable to define a storage chamber 12, at least the portion of the container defining the preparation chamber being transparent to microwave energy (paperboard, col. 4, lines 1-8), wherein the improvement comprises: the storage chamber portion of the container has a microwave shielding material (aluminum foil, lines 9-12) disposed therearound, such that, as a comestible material 42 initially disposed within the preparation chamber 13 is cooked by exposure to microwave energy the comestible material 42 displaces from the preparation chamber 13 into the storage chamber 12 whereat the comestible material is shielded from further exposure to microwave energy by the microwave shielding material (see Figures 1-10 and col. 3, line 22 – col. 5, line 46). In regard to claims 3 and 11, the cup shape bottom container with sidewall 36 as shown in Figure 1 is the claimed conduit.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-7 and 12-14 are rejected under 35 U.S.C. 103(a) as being obvious over Brandberg et al (US 4,038,425), in view of Dysarz (US 5,071,662).

As set forth above, Brandberg shows a popcorn container having every feature as claimed except for the use of a diverter in the storage chamber. Dysarz shows a microwave popcorn arrangement using a preparation chamber (panel 1, 14, 59) holding corn kernel to be popped and directing popcorn into a storage container (2, 15, 51). The panel includes conduit shape popcorn directing device (such as 9, 11 in Figures 4, 7 and 8 and the trays 53 in Figures 21 and 22) for diverting the popcorn into the container (see Figures 1-25 and col. 5, line 8 – col. 6, line 52 and col. 8, lines 59 – col. 9, line 47). It would have been obvious to an ordinary skill in the art at the time of invention to modify Brandberg to use a diverter in the storage chamber to more evenly direct the popcorn into the storage chamber, in view of the teaching of Dysarz. The exact structure of the conduit would have been a matter engineering expediency of the one shown in Brandberg. Dysarz also shows the use of microwave inhibitor 50 for preventing microwave heating of popcorn and concentrating more microwave to corn kernels. It would have been obvious to one of ordinary skill in the art to determine the exact location of the microwave shielding material to prevent heating of the popcorn in view of the combined teaching of Brandberg and Dysarz.

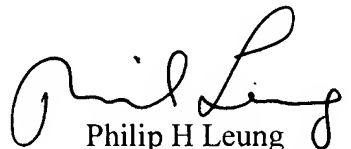
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6. The other references cited in the PCT report are also made of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H. Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571)-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Philip H Leung
Primary Examiner
Art Unit 3742

P.Leung/pl
10-10-2006